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Note verbale dated 28 October 2004 from the Permanent Mission of Japan to the United Nations addressed to the Chairman of the Committee

The Permanent Mission of Japan to the United Nations presents its compliments to the Chairman of the Committee and, with reference to the latter's note verbale dated 21 June 2004, has the honour to transmit herewith the first report of the Government of Japan in accordance with Security Council resolution 1540 (2004) (see annex).

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Annex to the note verbale dated 28 October 2004 from the Permanent Mission of Japan to the United Nations addressed to the Chairman of the Committee

Japan's report to the Security Council Committee established pursuant to paragraph 4 of Security Council resolution 1540 (2004)

1. Japan's Basic Position

(1) The basic position of Japan on disarmament and non-proliferation of Weapons of Mass Destruction is detailed in the book titled "Japan's Disarmament and Non-Proliferation Policy" issued in October 2004 (ANNEX). Japan has taken a variety of domestic legislative and executive measures to effectively implement the United Nations Security Council Resolution 1540 (2004), in accordance with its basic policy on disarmament and non-proliferation of Weapons of Mass Destruction. (For details of the policy, please refer to the book titled "Japan's Disarmament and Non-Proliferation Policy".)

(2) United Nations Security Council Resolution 1540 is significant as it provides international community with bases for responding to growing threats posed by non-State actors that may acquire, develop, traffic in or use Weapons of Mass Destruction and their means of delivery. Prompt and full implementation of the Resolution is therefore important. In this connection, Japan expresses its willingness to take a lead in ensuring the effective implementation of the resolution, and to contribute to the work of the 1540 committee for that purpose.

(3) After World War II, Japan chose to establish its position in the international community as a nation dedicated to peace, with a strong determination that the devastation of war never be repeated. From this viewpoint, Japan considered it important to demonstrate that Japan, itself, would not pose a threat to the world, and hence renounced the option of nuclear armament. In 1955, Japan enacted the Atomic Energy Basic Law, which limits nuclear activities in Japan exclusively to the peaceful purposes. Subsequently, in 1967, Japan announced the "Three Non-Nuclear Principles," of "not possessing, not producing and not permitting the introduction of nuclear weapons into Japan," and has upheld these principles.

(4) The Government of Japan has been dealing carefully with "arms" exports in accordance with the policy guidelines such as the Three Principles on Arms Exports in order to avoid any possible aggravation of international conflicts. The Three Principles on Arms Exports have been the basic policy concerning Japan's "arms" exports since they were declared at the Diet session in 1967. "Arms" as referred to in the Three Principles on Arms Exports are defined as goods which are listed in Item1 of Attached List of the Export Trade Control Order of Japan, and which are to be used by military forces and directly employed in combat.

(5) Japan adhered to international disarmament and non-proliferation treaties and regimes on Weapons of Mass Destruction and their means of delivery, and has been making active efforts to reinforce them. Japan has also made active contribution to promote international cooperation in preventing the proliferation of Weapons of Mass

Destruction, their means of delivery and the related materials. In addition, Japan has held consultations with countries for the close exchange of views, and, where necessary, made specific demarches on these occasions.

- Japan acceded to the Treaty on the Non-Proliferation of Nuclear Weapons in 1976 as a non-nuclear-weapon State. Subsequently, Japan accepted the IAEA safeguards to provide transparency of its nuclear activities. Japan also concluded an Additional Protocol to its IAEA Safeguards Agreement in 1999.

- In June 2004, the International Atomic Energy Agency (IAEA) concluded that, as a result of verification activities based on its comprehensive safeguards agreement and additional protocol with Japan, there was neither indication of the diversion of nuclear material placed under safeguards nor indication of undeclared nuclear material or activities in Japan. Japan is the first case in which integrated safeguards are applied to a state with large-scale nuclear activities, and it is extremely significant in that regard.

- Japan ratified the Comprehensive Nuclear-Test-Ban Treaty in 1998, and has vigorously worked to establish the International Monitoring System in Japan.

- Japan acceded to the Convention on the Physical Protection of Nuclear Materials in 1988.

- Japan ratified the Convention on the Prohibition of the Development, Production, and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction (BWC) in 1982.

- Japan ratified the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC) in 1995.

- Japan has promoted universal adoption and full implementation, and, where necessary, strengthening of the above-mentioned treaties.

- Japan is currently a member of all the international export controls regimes, i.e. the Nuclear Suppliers Group (NSG: nuclear weapons), the Zangger Committee, Australia Group (biological and chemical weapons), the Missile Technology Control Regime (MTCR: missiles) and the Wassenaar Arrangement (WA: conventional weapons). Japan has been actively participating in discussions in the regimes and promoting outreach activities towards non-participants of each regime.

- Japan is also providing a secretariat function as the Point of Contact (POC) in the NSG. Japan is presiding over the General Working Group in 2004 in the WA.

- Japan is a member of the Hague Code of Conduct against Ballistic Missile Proliferation, which was launched in November 2002.

- Japan fulfills its commitment to multilateral cooperation, in particular within frameworks of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological Weapons Convention, as

important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes.

- Japan has promoted dialogues and cooperation on non-proliferation so as to address threats posed by proliferation of nuclear, chemical and biological weapons, and their means of delivery. Especially, in order to strengthen comprehensive non-proliferation mechanisms through enhancement of such measures in Asian countries as import and export control, domestic control, border control and transport interdiction of Weapons of Mass Destruction and other related materials, Japan is having close dialogues with Asian countries.

- Japan has been positively participating in and contributing to Proliferation Security Initiative (PSI), which is an effort to consider possible collective measures among the participating countries, in accordance with national legal authorities and relevant international law and frameworks, in order to prevent the proliferation of weapons of mass destruction, missiles and their related materials that pose threats to the peace and stability of the international community. Japan played an important role in drafting the 'Statement of Interdiction Principles', a basic document of PSI. Furthermore, Japan has been calling for wider support for PSI, especially from Asian countries.

- Japan recognizes that some states may require assistance in implementing the provisions of this resolution within their territories. Japan is willing to provide assistance as appropriate in response to specific requests to states lacking the legal and regulatory infrastructures, implementation experience and/or resources for fulfilling the provisions.

- Japan has committed to make a financial contribution of a little more than 200 million US dollars to the Global Partnership Against The Spread of Weapons and Materials of Mass Destruction launched at the G8 Kananaskis Summit in 2002. Japan has already implemented the first project to dismantle a Russian nuclear submarine, and is currently conducting a feasibility study for dismantling the second nuclear submarine.

- As for problems of terrorism and Weapons of Mass Destruction, Japan has actively participated in the efforts to prevent WMD from falling into the hands of terrorists. Besides, Japan is contributing to the fight against terrorism in Afghanistan, through the enactment of the Anti-Terrorism Special Measures Law.

2. Measures taken by the Government of Japan in relation to the specific issues in the Operative Paragraphs of the Resolution

Operative Paragraph 1

Decides that all States shall refrain from providing any form of support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery;

As described above, Japan has committed to disarmament and non-proliferation of Weapons of Mass Destruction and their means of delivery, and has not intended and will never intend to provide any form of support to non-State actors as stipulated in this

paragraph. Japan ensures this commitment by enacting effective laws and regulations and by enforcing it appropriately as stated in the sections of Operative Paragraphs 2 and 3.

Operative Paragraph 2

Decides also that all States, in accordance with their national procedures, shall adopt and enforce appropriate effective laws which prohibit any non-State actor to manufacture, acquire, possess, develop, transport, transfer or use nuclear, chemical or biological weapons and their means of delivery, in particular for terrorist purposes, as well as attempts to engage in any of the foregoing activities, participate in them as an accomplice, assist or finance them;

(1) Prohibition of nuclear weapons related activities by non-state actors

"The law for regulations of nuclear source material, nuclear fuel material and reactors" (Law No. 166 of 1957) stipulates;

- Any person who wishes to use a nuclear fuel material shall, as provided by the Cabinet Order, obtain permission of the Minister for Education, Culture, Sports, Science and Technology. In such case, permission will not be given unless it is recognized that the nuclear fuel material will not be used for non- peaceful purposes.

- Any nuclear fuel material shall not be transferred or received without permission by the Government.

- Any person who, through reckless handling of specified nuclear fuel material, has caused the chain reaction of nuclear fission or emission of radiation causing danger to the life, body or properties shall be condemned to penal servitude of not more than 10 years. Any attempt to commit the crime mentioned shall also be punished.

- Any person who has threatened to damage the life, body or properties of other person by using the specified nuclear fuel material shall be condemned to penal servitude of not more than 3 years. Any attempt to commit the crime mentioned shall also be punished.

- As for nuclear warheads, "The Explosives Control Act" (Law No. 32 of 1884) stipulates that use, production, import and possession of explosives to disturb public security and injure persons, and/or damage properties are prohibited and punishable. The same law also prohibits the aforementioned activities relating delivery means of nuclear weapons.

(2) Prohibition of chemical weapons related activities by non-state actors

- "The law concerning prohibition on chemical weapons and restriction on specific materials" (Law No. 65 of 1995) stipulates that production, possession, transfer, receiving or use of chemical weapon is by itself punishable. Any attempt in this regard is also punishable by the same law.

- The same law also stipulates that production, possession, transfer or receiving of equipments or machines for exclusively composing or facilitating their use is by itself punishable.

(3) Prohibition of biological weapons related activities by non-state actors

- "The law on Implementing the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological and Toxic Weapons and on their Destruction and the Other Convention" (Law No. 61 of 1982) stipulates that legitimate purpose for developing, producing, retaining, stockpiling and acquiring biological agents or toxins shall be limited only to prophylactic, protective or other peaceful purposes.

- The same law stipulates that production, possession, transfer, receiving or use of biological weapons is prohibited and by itself punishable. Any attempt to produce or use biological weapons is also punishable.

- The same law also prohibits activities relating delivery means of biological weapons by non-state actors.

(4) Prohibition of their means of delivery related activities by non-state actors

- "The Gunfire Control Act" (Law No.149 of 1950) regulates the production, transfer, import and transportation of gunfire, including propellant.

(5) Measures common to (1)~(4)

- "The Foreign Exchange and Foreign Trade Law" (Law No. 228 of 1949) stipulates that one must have a license to engage in export of WMD (including their means of delivery)-related materials and technology to another country. Any violation of this rule is punishable (see Section 3 (c) and (d))

- In all cases mentioned above, "The Penal Code of Japan" (Law No. 45 of 1908) establishes the offence of co-principals, abet and aid to the criminal act.

- "The Act on Punishment of Financing to offences of public intimidation" (Law No.67 of 2002) prohibits financing to terrorist act.

Operative Paragraph 3

Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials and to this end shall:

(a) Develop and maintain appropriate effective measures to account for and secure such items in production, use, storage or transport;

(1) Nuclear

"The law for regulations of nuclear source material, nuclear fuel material and reactors" stipulates;

- When persons transport nuclear fuel material or material contaminated by nuclear fuel outside of factory etc., they must take measures necessary for safety.

- Any person who uses nuclear materials has to abide by the legal responsibility in terms of the state system of accounting for and control of nuclear materials that is established in order to meet the requirement of Safeguards Agreement between Japan and IAEA or other bilateral agreements. Furthermore, Government of Japan and IAEA could implement their verification activities for the purpose of that any nuclear material is not diverted to nuclear weapons.

- "The Explosives Control Act" stipulates that any person who is engaged in producing, importing, possessing and/or ordering explosives must prove that their activities are not intended to disturb public security, injure persons, and/or damage properties. Failure to do so constitutes offence.

(2) Chemical

- Under "The law concerning prohibition on chemical weapons and restriction on specific materials", production, use, possession and transfer of scheduled chemicals of Chemical Annex of the Chemical Weapons Convention are strictly regulated.

(3) Biological

- "The law on Implementing the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological and Toxic Weapons and on their Destruction and the Other Convention" stipulates that competent Ministers in the government shall be authorized to order persons engaged in handling biological agents or toxins to make necessary reports regarding their activities to the extent necessary for preventing the developments of biological agents and toxins for any purpose whatsoever other than prophylactic, protective or other peaceful ones.

- As for the control of agents and toxins, Ministry of Health, Labour and Welfare makes the guideline for enhancement of measures to control of virus and bacteria, and directs public health centers and medical institutions to control appropriately over virus and bacteria.

(4) The means of delivery

- "The Gunfire Control Act" stipulates to keep records of such activities as production, merchandise, receipt and consumption of gunfire.

(b) Develop and maintain appropriate effective physical protection measures:

(1) Nuclear

"The law for regulations of nuclear source material, nuclear fuel material and reactors" stipulates;

- The operating organization shall impose regulations over the protection of nuclear material and obtain permission of the competent Minister before they begin to handle the specified nuclear fuel material.

- When users transport nuclear fuel material or material contaminated by nuclear fuel material outside of factory etc., they must take measures necessary for safety.

- Any user shall, if specified nuclear fuel materials are transported, designate a person who takes responsibility concerning the transportation of the specified nuclear fuel material from the time when the specified nuclear fuel material leaves a factory, etc. of the sender to the time when it arrives a factory, etc. of the consignee. Any user must also take care so that an agreement be made among a sender, a consignee and a transporter with respect to the responsibility for transportation.

(2) Chemical

- "The law concerning prohibition on chemical weapons and restriction on specific materials" stipulates obligation that possessors of schedule 1 chemical of Chemical Annex of the Chemical Weapons Convention shall have it in a solid locked equipment and the Minister of Economy, Trade and Industry may order its staff to inspect the site of the possessors.

- Article 6 of "The order regarding manufacture of specific materials" (Japan Defense Agency Order No.48 of 1995), which is based on Section 2 of Article 16 of "The law concerning prohibition on chemical weapons and restriction on specific materials" stipulates that Chiefs of Staff and others shall take necessary measures for safety management to prevent hazards caused by manufacture, robbery and other accidents of schedule 1 chemical of Chemical Annex of the Chemical Weapons Convention.

(3) Biological

- The Government of Japan (Ministry of Health, Labour and Welfare) makes the guideline for enhancement of measures to control of virus and bacteria, and directs public health centers and medical institutions to control appropriately over virus and bacteria.

(c) Develop and maintain appropriate effective border controls and law enforcement efforts to detect, deter, prevent and combat, including through international cooperation when necessary, the illicit trafficking and brokering in such items in accordance with their national legal authorities and legislation and consistent with international law;

- "The Foreign Exchange and Foreign Trade Law" stipulates that one must have a license to engage in a brokerage of weapons, where the weapons are transferred from one foreign country to another Any violation of this rule is punishable.

- "The Customs Law" (No. 61of 1954) stipulates that with respect to goods which need permission, approval, other disposition of the administrative agency or the like under other laws and regulations on the occasions of their import and export, a proof that such permit, approval, or the like has been obtained shall be provided to the Customs at the time of export or import declaration. No export or import permission shall be granted if the proof is not provided.

- The Japan Coast Guard as a primary maritime law enforcement agency in Japan is implementing appropriate effective law enforcement activities to prevent, detect and suppress the illicit trafficking at sea in such items as described above in accordance

with relevant national legal authorities including " Japan Coast Guard Law" (Law No. 28 of 1948) and "Criminal Procedure Act" (Law No.131 of 1948). When necessary for the performance of their duties, Coast Guard officers may stop, visit and inspect a vessel for the purpose of ascertaining any particulars.

- The Self Defense Forces may notify relevant national organizations and others of information gained during their surveillance activities in accordance with "Defense Agency Establishment Law"(Law No. 164 of 1954). They may also visit and inspect a vessel and conduct other activities in accordance with relevant provisions of the "Japan Coast Guard Law", which is applied to Self Defense personnel in a situation when maritime security operations (operations that the Self Defense Forces may conduct when there is a special necessity, on sea, for the protection of life or property or the maintenance of security.) are ordered in accordance with "Self Defense Forces Law" (Law No. 165 of 1954).

- In accordance with Section 2 of Article 100-9 of "The Self Defense Forces Law", the Self Defense Forces may conduct, in situations in areas surrounding Japan, ship inspection operation, based on the resolution of the UN Security Council or with the consent of the flag state, with the purpose of ensuring strict implementation of measures regulating trade and other economic activities in which Japan takes part.

- In accordance with Article 84 of "The Self Defense Forces Law", the Self Defense Forces may, when a foreign aircraft intrudes the airspace above territory of Japan in violation of international laws, the Aviation Law and provisions of other laws, land them or take necessary measures to have them leave from territorial airspaces of Japan.

(d) Establish, develop, review and maintain appropriate effective national export and trans-shipment controls over such items, including appropriate laws and regulations to control export, transit, trans-shipment and re-export and controls on providing funds and services related to such export and trans-shipment such as financing, and transporting that would contribute to proliferation, as well as establishing end-user controls; and establishing and enforcing appropriate criminal or civil penalties for violations of such export control laws and regulations;

- Based on the Foreign Exchange and Foreign Trade Law, permission is required to export 15 items of goods and technologies which are listed in the Attached list 1 of the Export Trade Control Order (Executive Order No.378 of 1949) and the Attached List of Foreign Exchange Order (Executive Order No.260 of 1980), respectively. The listed goods and technologies include those related to WMD.

- To further enhance export controls with a view to strengthening the non-proliferation of weapons of mass destruction, Japan introduced the catch-all controls in April 2002. A license must be obtained from the Minister for Economy, Trade and Industry for the export of virtually all goods and technologies (including those that are not listed), as long as the end-uses of the goods and technologies are related to weapons of mass destruction.

- As far as arms are concerned, they are subject to control by relevant laws and regulations even if they are only transshipped. Violations of these laws and regulations are punishable.

- Under "the Penal Code of Japan", financing the imports and exports of goods without permission is punishable.

- Japanese police investigates cases of illegal exportation of materials subject to the control of Foreign Exchange and Foreign Trade Law (Law No.228 of 1948) and the Attached List of Export Trade Control Order.

Operative Paragraph 6

Recognizes the utility in implementing this resolution of effective national control lists and calls upon all Member States, when necessary, to pursue at the earliest opportunity the development of such lists;

- The Attached List 1 of Export Trade Control Order (Executive Order No.378 of 1949) and the Attached List of Foreign Exchange Order (Executive Order No.260 of 1980) provide lists of goods and technologies which are subject to export control.

Operative Paragraph 8

Calls upon all States:

(a) To promote the universal adoption and full implementation, and, where necessary, strengthening of multilateral treaties to which they are parties, whose aim is to prevent the proliferation of nuclear, biological or chemical weapons

- Japan puts great emphasis on universalization, strengthening and full implementation of the WMD-related treaties such as NPT, CTBT, BWC, CWC, and IAEA Additional Protocols, and has been working towards achieving the goal on bilateral and multilateral bases. For example, Japan co-hosted CTBT Friends Ministerial Meeting in September 2004, at the end of which a Joint Ministerial Statement was issued to call upon all the non-ratifiers to ratify the WMD-related treaties without delay.

(b) To adopt national rules and regulations, where it has not yet been done, to ensure compliance with their commitments under the key multilateral nonproliferation treaties

- Japan has enacted domestic laws in order to ensure compliance with obligations under major multilateral treaties on non-proliferation. (For details, refer to the sections under Operative Paragraphs 2 and 3.)

(c) To renew and fulfill their commitment to multilateral cooperation, in particular within the framework of the International Atomic Energy Agency, the Organization for the Prohibition of Chemical Weapons and the Biological and Toxin Weapons Convention, as important means of pursuing and achieving their common objectives in the area of non-proliferation and of promoting international cooperation for peaceful purposes;

- Japan, on many occasions, expresses its commitment to multilateral cooperation. Japan is an active member in relevant international organizations, such as the IAEA Board of Governors and the OPCW Executive Council. Japan also fulfills its commitment to multilateral cooperation through financial contributions to the international organizations and fora. As for the fiscal year 2004, Japan allocates

- 14 million US Dollars for the IAEA technical assistance, in addition to regular contribution of 53 million US Dollars for the IAEA, which accounts for approximately 18 % of the entire budget of the IAEA.

- 12 million EURO as regular contribution to OPCW (approximately 20%)

- 0.1 million US Dollars as contribution to BWC meetings (approximately 20%)

- 17 million US Dollars as regular contribution to CTBTO Preparatory Committee (approximately 20%)

- 0.12 million US Dollars as contribution to the NPT Review Conference (approximately 14%)

Operative Paragraph 9

Calls upon all States to promote dialogue and cooperation on nonproliferation so as to address the threat posed by proliferation of nuclear, chemical, or biological weapons, and their means of delivery;

- The Government of Japan is making such efforts as hosting "the International Conference on Wider Adherence to Strengthened IAEA Safeguards"(December 2002) in Tokyo, in order to promote the universalization of the IAEA Additional Protocol, which contributes to strengthening the nuclear non-proliferation regime.

- The Government of Japan, aiming at enhancing efforts against proliferation in Asia, which contributes to the peace and security in the Asian region, held the first "Asian Senior-level Talks on Non-Proliferation (ASTOP)" in November 2003 and plans to hold the second ASTOP in the fiscal year 2004. Regarding export control, the Government of Japan held the first Asian Export Control Dialogue in October 2003, the 2nd Asian Export Control Policy Dialogue and the 12th Asian Export Control Seminar in October 2004. The Government of Japan has been reinforcing efforts of this kind by holding other seminars such as the 1st Asia Non-Proliferation Seminar in May 2004.

- The Government of Japan is actively promoting outreach activities towards Asian countries through such means as holding talks on Non-Proliferation with ASEAN countries, including Pakistan and others.

- Japan has been providing necessary assistance either bilaterally or through international organizations, including training programs for non-proliferation and provision of equipment.

- The Government of Japan is actively participating in the Hague Code of Conduct against Ballistic Missile Proliferation (HCOC) as well as international export control regimes such as the Nuclear Suppliers Group (NSG), the Zangger Committee, the Australia Group (AG), the Missile Technology Control Regime (MTCR), and the Wassenaar Arrangement (WA) and is promoting outreach activities towards non-participants.

Operative Paragraph 10

Further to counter that threat, calls upon all States, in accordance with their national legal authorities and legislation and consistent with international law, to take cooperative action to prevent illicit trafficking in nuclear, chemical or biological weapons, their means of delivery, and related materials;

- The Government of Japan has been actively participating in the Proliferation Security Initiative (PSI) since its launch in May 2003. The efforts made by the Government of Japan include hosting a maritime interdiction exercise in October 2004, and various outreach activities to enhance support towards PSI among Asian countries.